

Minutes
September 12, 2022
Planning Commission Meeting

The agenda for this meeting was posted in the legal paper of record, the Plattsmouth Journal, on September 1, 2022. The Chairman, Alan Mueller, opened the public meeting at 7:00 pm & stated that the open meetings act is posted on the wall. The Pledge of Allegiance was recited. Planning Commission Members Althouse, Mueller, Staben, Tesar, Felthousen, Oehlerking, Dennis, Sullivan and Widick met as advertised. Approval of the minutes for August 8, 2022 was motioned by Widick, seconded by Staben. A voice vote followed with all voting aye.

The first item on the agenda was CUP #11308 – Riverside RV Park – Joe & Dan Riskowski, owners – 20015 Beach Road, Plattsmouth – Legal description: L2 EXC S16’ & 4A DB138 P263 & TL36R NW1/4 35-13-13 – RV Park

Mueller stated to Mike Jensen, Zoning Administrator, that it was his understanding that this was tabled. Jensen stated that the document the board requested of Riskowski’s wasn’t completed and that they would have to bring it back on the next regular meeting.

The second item on the agenda was CUP #11462 – Ash Grove Cement on behalf of the owner, Ricky L Bond etal – 10617 Mynard Road, Louisville – Legal description: NW1/4, PART OF NE1/4, PART OF SW1/4 33-12-12 – Mining
Mueller then as Jensen to present this application.

Administrator Remarks:

Consultation with both the Olsson Engineer, Eric Beiermann and Ash Grove Regional Mine Engineer, Quentin Vandal and stressed that the primary concerns will be dust, traffic and noise. There is also a County bridge located just outside the entrance of this proposed facility that could be a concern as well. There are 6 residences that could possibly be affected by this proposed operation.

Cass County regulations:

- Matrix page 52 – Industrial – Mining, Extraction of minerals, sand and gravel, clay, shale, limestone, and sandstone quarries.
- Conditional Use – Agricultural District – section 8.14.
- Section 5.07 – Agricultural District – section; permitted Conditional uses – subsection M.
- Section 7.06 – Consideration Examples.

He stated he would like the board to pay particular attention to those consideration examples. Also, there is a letter that was sent out to the Planning Commission to refer to the Future Land Use map in your Comprehensive Plan. The land in this application is not covered in the Future Land Use map AG mining. AG Mining stops ½ mile south of Hwy 66. Just keep in mind the Future Land Use map represents a generalized county-wide view of where future development should occur. The public objections to this application are vast and have merit. If the location in question was adjacent or neighboring, he believed it could be permitted. This location should not be considered unless the following concerns can be addressed:

- Dust
- Traffic
- Flow of traffic
- Noise
- Hours of operation
- Possible contamination of the water table
- Future mitigation of the site after mining is complete.

There was also something that was handed out and that was a letter from the Roads Department. It was outlining concerns for both the road, the haul route and the bridge itself as well as the access. Jensen then read the letter from Leonard Thorne – superintendent of the Roads Department – with the following concerns on the proposed mine: “108th Street, in its current state, will not handle the proposed amount of heavy truck traffic. Significant changes would have to be made to the road to accommodate that volume. 108th St south of Agnew Road does not have the same right-of-way as the north mile and the road is narrow which will be a problem with trucks meeting each other on that section of the road. The curve at 108th St and Mynard Rd is also very narrow and will not accommodate two trucks at one time. Dust will also be a major issue. We know from past mining operations that dust is one of the main problems with that amount of traffic. I also do not like the mine entrance being located on 108th St south of the bridge. The bridge would need to be load-rated for that amount of trucks and determine if the current structure can carry the repetitive loads of that volume. It would make more sense to have the mine entrance on Mynard Rd and avoid the bridge all together. I do believe that hard-surfacing should be looked at due to the heavy traffic and the dust factor. “

Mueller asked if there was a representative from Ash Grove or Olsson Associates that wished to speak. At that point, James Fowler, representative for Ash Grove came up to speak. He stated that they are looking into the bridge load rating – their engineers are following up with that. They currently mine in Lincoln on dirt road access and have had some success with dust mitigation using dust suppressants and well as using a water truck frequently to maintain that roadway. Jensen asked if that was a traditional county road he is referring to. Fowler stated it was and it's located southwest of Lincoln. Staben asked how many employees that would add. Do they plan on mining it or will it be contracted out? Fowler stated they are currently looking at contracting that out. Staben stated that it will actually not do anything for our community then. Fowler stated it will be a sustainable shale source for the Ash Grove facility. Tesar asked how many trucks they will have running in and out of there each day. Fowler stated initially 20 to 30 based on their current volumes that can potentially increase to 50 to 60 trucks. Mueller asked – when you state 50 to 60 – are they going to be stored at location or will they be stored at Ash Grove. Fowler stated they will probably be stored wherever the contractor is located. Mueller stated so more than likely at that location. Fowler stated that there would not be space for that truck volume at that location. Typically they mobilize their fleet then do their haul route for the day shift and then demote. Mueller stated that when they say 50 trucks, that will actually be 100 passes. Fowler stated yes – one north and one south. Widick asked if the adjacent ground is not appropriate or not available for them to use. Fowler stated that the Dakota clay formation is very lens-looking in formation as far as how it goes. So the clay they are actually looking for pops in there and then lenses out like the lens on the eye. He stated there was a mine just across the creek where the pond is – they took the resources from there long ago in the 60's and they didn't find the right material adjacent to it, but they found it just beyond that creek. They have looked at other locations but its hit and miss. Dennis asked the definition of "frequency of water trucks". Fowler stated it just depends on the day – if it's a hot day in the middle of summer, they run one full-time. If it's 50 degrees then you can hit a roadway and you don't want to hit it again and get it too wet. Mueller asked what the hours of operation will be. Fowler stated that they are currently looking at 8 am to 4 pm. Monday through Friday. On days of heavy rain, they will not operate. No weekends. Will there be other equipment that will be kept there? Fowler stated that there will be a water truck, a standard sized grader, a 336 excavator and a 963 track loader. They will have one operator to load the trucks then he will operate the water truck. Mueller asked what the maximum projection for this site? Fowler stated it could be potentially up to 40 years. Mueller stated that he understood that by using clay you could lower your carbon emissions. Fowler stated that's the three year plan on that. Jensen asked if they had consulted with the State Highway Department on the Hwy 66 in regards to a turning lane or anything like that in regards to the traffic. Fowler stated that Olsson Associates is discussing this with their traffic group and the other team on that. He stated that – upon review – they may need to increase that apron for a better turn radius. Mueller asked about Hwy 66 and their proposed entrance into Ash Grove. Fowler stated that they are looking at opening it for a contractor entrance to begin with. They are going over with the State what it will take as far as improvements go to allow for heavy traffic. Mueller stated that safety screening was required on the outer boundaries and he didn't see anything in their Business Plan addressing that. Fowler stated they would fence the property off and they intend to berm the active mine area (12 – 15 acres) but not the entire 100 acres which will remain agricultural. They plan on actively mining 3 to 6 acres at a time – and as they progress through the rest of the area, they will back-fill that area. Mueller asked how tall the fencing would be. Fowler stated it would be a 6 ft. fence with a substantial berm so it won't be visible. The berm would be the visual screening. Mueller asked about the bridge capacity. Fowler stated they are following engineering and will go to the County to see what their engineers suggest. Tesar asked if they were going to build a new bridge if they have to. Fowler stated yes – or change their route. Widick asked how far the dirt road is that they use in Lincoln and whether they had to do any upgrading on that road. Fowler stated it is 6 miles to the highway and that rock was intermediately put down and discussing with the County if there are issues with wear or tear. They also water around the house far enough so the dust won't impact the house. Jensen asked where that particular operation is located in Lancaster County. Fowler stated it is in southwest Lincoln. Jensen then stated that a lot of concerns have been brought forward in regards to the water table. Our water here in Cass County is critical both in quality and quantity. Fowler stated the water table should not be impacted by their mining activity. They have not found anything that would be large enough as far as sand to get to adjacent water sources in the water table. Tesar asked if they pump the water out. Fowler stated – based on environmental permitting – they have to pump the water from the pit to a settlement pond. That pond would have a rear discharge structure so that the silt doesn't get into the creeks. Tesar asked the possibilities of that water being high in magnes or arsenic. Fowler stated that it should only have silt from the Dakota clay formation and it shouldn't have any rare metals or anything else. Tesar asked if the county lower the speed limit or widened the road for the Lancaster facility. Fowler stated not to his knowledge. No modifications that he knows of. Jensen asked about them providing a soil strata profile – some kind of simple analysis that we can provide to the public for questions with regards to the water table. Fowler stated that they

would get him that information. Widick asked if the Lincoln supply was running out. Fowler stated that the current pit is running low. They are actively pursuing other pits as well. Mueller asked how we address the narrower parts of the road. Fowler stated that they were actively discussing this and will try to accommodate on these issues. Mueller asked what the site distance is on this road. What's the visibility? How far is that? Fowler stated it was fairly short. Mueller asked about Hwy 66 on 108th street? Fowler stated that it would have lower visibility. Mueller asked about their proposed entrance off of Hwy 66 into Ash Grove. Fowler stated that it had a crest at the top but it's a fair distance – roughly ½ mile. Mueller then asked if anyone else had any questions. At this point, Eric Beiermann, Design Technical Manager, came up to speak. He wanted to discuss the operation of the pit. He read the letters that were sent in. He believes there is a misconception on what this is. Just basic equipment with small dump trucks – no side dumps and mid-sized excavators. Widick asked how deep the holes were. Beiermann stated it could go up to 120 feet deep over the years. They would be mining about 6 acres at that depth. Once the resources are extracted, they will backfill. At the end, there will be a small pond of about 20 acres. This is just a small mining operation. Typical day – one person in excavator, one guy in a loader loading trucks – no explosives, no drilling or blasting. Jensen asked about the round trip on the truck. Roughly 6 miles at 20 mph – long cycle time (30 minutes) due to hill and speed. Sullivan asked how many trucks. Beiermann stated 6 trucks. Mueller asked if it was a year-round operation. Beiermann stated it is year-round but they stop during poor weather – heavy rains or snow. Mueller asked if this would be in replacement of the current clay situation or in addition to. Beiermann stated this would immediately replace currently clay once they begin production. Jensen asked about the maintenance on the road – with regard to rock they mentioned – would that be provided by Ash Grove to County specs? Beiermann stated they use 1 ½" crusher run which he thinks is typical for what the County uses right now from the mines down in Weeping Water. In Lincoln, it's spec'd locally down there. Jensen clarified that it's not a cost incurred by the County it's a cost incurred by Ash Grove. Beiermann stated that it's currently incurred by Yankee Hill which they pay to mine down there. Staben asked how many loads are coming in a day right now. Beiermann stated it would be the same 20 to 30 loads. Roughly 800 tons a day. Althouse asked if this clay is coming out of the Lincoln area right now. Beiermann stated that it was. Mueller then asked if there were any other questions. Since there were none, he opened up the meeting to public comments.

Fifteen people from the gallery came up to speak with the following concerns:

- What assurances do they have that the time of operation (from 8 am – 4 pm) doesn't change?
- They call the equipment small, they call it loud – no matter – it will be constantly making noise.
- Do not believe that any type of berm will hide any site view of this operation.
- What happens if they decide to mine on the other side of the creek directly across the road from their house?
- If it's too noisy, they may be forced to move.
- Why were the people that live on the road that will be traveled for this operation not notified? Mueller stated that they followed the requirements.
- What are their intentions for maintenance on the road and speed restrictions?
- Property devaluation
- More traffic
- What are the possibilities of hard-surfacing that road?
- What restrictions will be placed on Ash Grove?
- Dust and slop on road
- Speed recommendation of 30 MPH.
- Safety on road, already has high traffic because of the other businesses in that area
- 60 trucks a day – this would mean 30,000 trucks a year
- Condition of 108th street – would be rendered impassable.
- Calcium chloride is one of the most corrosive liquids available.
- Road isn't wide enough – land would have to be purchased from property owners to widen it.
- Life expectancy on bridge will be significantly shortened.
- Water table could be lowered or polluted
- Would keep family from moving to his property
- Owns property across from this. Plan to build on the timbered part of his land. This could ruin that possibility.
- Ash Grove signed a contract on 140 acres. They took clay probes on the west side of creek and the tree line would buffer the sounds. They also took clay probes on west side next to 108th St. He was told that is the viable site. He was approached about probing on his property – he stated he wasn't against probing but wanted to wait until the crops were removed. That shut that down.
- Concerned about their property

- 7 residences affected on this road, not 6 as mentioned.
- His CUP was limited to 300 storage sites instead of the 500 storage sites they requested to limit the amount of traffic on 108th street.
- Accidents are inevitable.
- Hwy 66 & 108th Streets should be a major concern with traffic due to short site distance.
- Impact on farming community.
- Higher amounts of excavation equipment would be needed to haul what they are predicting
- Access for farmers and families.
- What other roads will be impacted?
- Road is already bad enough. Dust follows them right up the road.
- Use clean rock to keep dust down
- Far from other mines – spreads out the mining process in Cass County – do we gut Cass County with mining or do we keep it Agriculture and residential.
- Dust on crops and field damage crop production.
- Will other pass ways be used even if they'll have an established route?
- Environmental impact and impact on well, cattle and creek on his land.
- Water on Weeping Water creek is clean and clear until you get down to the old quarries.
- Ash Grove is not an American company any more so they do not have Cass County's interest in mind.
- Ash Grove makes it sound good, but they don't have to live there.
- Numbers on the cost of a hard surface road. More specifics on dust control - how often, how far? They own companies all over the world – they can pave the road just as cheap as anyone can. With the millions they will be making on this project, they can spend 2 – 3 million dollars on paving.
- What is the benefit to the County to do this? What benefit is the County getting from this? There are 4 other exits for this piece of property – the one they chose is the hardest one – they do not have a line of site, they do not have a 90 degree approach. The other routes doesn't go through creeks or over a bridge.
- Answer on hours of operation – will that change? Mueller stated that the hours can be part of their Conditional Use agreement.
- The noise from the banging buckets will be extremely loud. Does not want the route moved to 96th street – it will ruin his property.
- Water quality specifically whenever overburden or a clay overburden is removed, there could be an adamantite that would go into the shallow wells. The water quality could be impaired not only during the time it is mined but for years after the mining is done. How can they be assured that those test wells are seal properly when they are abandoned – also they should be required to do free well testing on any of the shallow wells in that area to assure that nothing is affected by the mining.
- Effects of polluted water on health.
- Once the water is ruined, it can't be fixed.

Mueller then asked the Ash Grove representative come back up to answer a few questions.

- What are your thoughts on a hard surface road and reduced speed limit? Fowler stated that they don't see an issue with the reduced speed limit. The hard surfacing of the road would be something that they would have to reassess the project to determine the cost and what engineering would be involve – widening, storm water would have to be taken into account.
- With no storing of trucks at the facility, they'll be going home or to a different facility every night, how would you handle that? Where are the trucks going to be stored? Fowler stated it would have to be determined by which company they go with and they would maintain the same travel route if possible. If they are coming from the west, it would have to be addressed to not drive through town. They could set the standard with the Contractors and they would comply or there would be an issue. They will need to be in compliance.
- How would you address dust on surrounding property owners' crops and the impact on crop production? On the mining itself, Air permits do not allow dust to leave their property. That has to be monitored and reported to the EPA.
- Impact on water quality and impact on wells. The material they are mining should not have any way to have hydronic conductivity into the water table and then the environmental situs assessment they did on it. They did identify some wetlands adjoining to the property but nothing serious. As far as the water that is leaving the property, it has to be sampled. That's all part of their environmental permits. No sediment should be leaving the property.

- Is it the plan to have the sediment pond outside of the floodplain? It will have to be built up and engineered to withstand floods - but yes. It will have to be maintained – the sediment dug out and let dry so it has space for more.
- Was the dust concern on road dust or pit dust? The concern is the road dust.
- For dust control, is that the whole road from entrance to Hwy 66 or what would the plan be? The shortest run that would be feasible to run a water truck on it.
- Wherever your contractors are based out of, would they be required that specified haul road north to Hwy 66? That could be manageable, yes.
- Isn't calcium chloride highly corrosive? Yes – it is. So is magnesium chloride is used, but calcium chloride is used for snow melt – and both are highly corrosive. There are other alternatives, though. Soybean oil being one of them. What does the County use for dust control? Traditionally, calcium chloride – but it's clear the corrosiveness of that is bad for chrome wheels and plastic lenses. Mueller mentioned that he had a conversation with Lenny Thorne because of a mining operation ran off of 72nd Street, and Thorne mentioned that it was a continual fight over what the County thought was dust control versus what the Contractor thought was dust control. They had a road grader there once a week because of the wear and tear on the road. They couldn't keep it in drivable condition. With the type of traffic that they are talking about, Jensen stated that he was glad they brought up 72nd street because he used to grade that road, and it pumped something terrible because of the dump and pups – it was never in really good shape.
- Beiermann wanted to touch base real quickly about the intersection for Hwy 66 and 108th Street – he has been coordinating with NDOT the District Office – there are requirements that they are going to make us meet for that intersection. He just wanted everyone to know that there could be some improvements there. He knows it's a major concern and that's a good idea. Just keep in mind that they are going to be looking at that intersection. They are going to be looking at truck turning radius coming through there, they have to look at site distances so there could be some improvements but it's not going to happen overnight. But he wanted to let everyone know that he is working with them but until they get a little bit further along with this, and get some more information, then he'll have some better information to share. Even with the entrance into their facility off of Hwy 66, if you're going west, there could potentially be a right turn lane. That was something that they brought up but they won't know until they do a study on it. Mueller asked if he was making a recommendation that this be tabled until they get more information about what would done on the highway, the site distance and the bridge and the narrow road on 108th Street? He stated that those are his concerns – that they have a lot of question marks that need answered. Tesar stated that the bridge would handle a couple of grain trucks but he doesn't think it could handle the pounding that the rock trucks would put on it. It was suggested to table it to the next Planning Commission meeting if that would give them time to gather all of the extra needed information. Mueller suggested that they look into the hard-surfacing of that road as the Roads Department was really concerned about 72nd street and the wear and tear on it from the other mining operation. Tesar stated that the dust is so bad that they have to stop and let the dust settle down just to see the road. The hazard of someone coming over the hill and hitting someone is too high. Althouse stated that they really need to consider a hard surfaced road. Beiermann agrees with him.
- Radon is a concern. Clay is a captive of radon – is this a risk? This can be released when the clay is disturbed. Fowler stated not to his knowledge – but he would look into that and let him know.

Beiermann asked if they table it tonight, will they be able to get on the next meeting. Jensen stated he has an open spot, so yes. His question to Beiermann was can they have the information available that's needed by then? If not, they can push it to 60 days for their sake so they have everything together. He stated that he would discuss it with Ash Grove and will get the information to him next week. Mueller asked Jensen to get with the engineer or Thorne and his engineer and talk about what they plan for the road. Felthousen also mentioned that if they pave that road and fix that bridge then it's a dedicated route. Mueller asked if there were any more questions or comments. Since there were none, he closed the public hearing at 8:35 pm. He then asked the Board if they had any questions or comments. Felthousen asked if this property was in the Future Land Use plan. Jensen stated it was not. Future Land Use for the County is a vision of where we'd like to see future development. As far as AG mining goes, the line for that stops ½ mile south of Hwy. 66 – this particular property is 1 ½ miles south of that. Felthousen stated that if we allow it, it would be spot zoning. Jensen stated that it's still allowed in the Agricultural District as a Conditional Use permit – but the Future Land Use map has to be part of the decision that the Board has to weigh – it wasn't intend to go that far south at the time. Althouse made a motion to table this permit and have Jensen take the list of concerns (bridges, site distances, hard surface roads, water quality and Hwy 66 access) and present them to Ash Grove. Seconded by Tesar. A roll call vote

followed with the following votes: Althouse – aye; Tesar – aye; Dennis – aye; Sullivan – aye; Oehlerking – aye; Staben – aye; Mueller – aye; Felthousen – aye; Widick – aye. 8 to 0 to table.

The third item on the agenda is Administrative Subdivision Permit ZP-2022-0001 – Property owners Edwin & Donna Foster – 2204 Splitt Drive, Murray – Parcel 130322083 - Legal description: SPLITT SUBLLOT 1R 6-10-14 & 31-11-14 – Vacation of Plat.

All parcels surrounding this parcel including this parcel are in the Transitional Agricultural District.

Exhibits:

- A. Administrative Subdivision application permit ZP-2022-0001
- B. Original Plat dated October 29, 1998
- C. Replat dated July 20, 1999
- D. Letter of request from property owners, Edwin & Donna Foster

Administrative Remarks:

This plat was combined in 1999 to eliminate receiving two tax statements. Applicant wishes to vacate this plat per Section 6 in the Cass County Subdivision regulations.

Mueller stated that the easiest way to explain this is Exhibit C is how it is today. Originally, lot 1 was a 1.75 acre parcel that was combined into Exhibit C so they could receive one tax statement. Felthousen asked if they wanted to split this because they ultimately want to put another house on a different parcel. Jensen stated that the vacation of this plat would be reverting it back to what it was in 1998 and it would be a 1.75 acre parcel and that's the parcel with the house on it that is served by rural water and then the remaining 7 acres currently does not have a house on it. Felthousen asked the reason for splitting it back. Mueller stated that they have a buyer for the remaining 7 acres and want to sell it. Felthousen asked if it was land locked. Jensen stated that it is not – that it is accessible off of Splitt Drive. Mueller stated that his main concern is you would be making a less than 3 acre split – which isn't allowed today. Tesar stated that you would be making another buildable lot also. Felthousen stated that they could allow it if it went up to a 3-acre lot. Mueller stated that it was explained to him that if they remove this plat and revert back to the plat of 1998 is allowed. Jensen stated that it was allowed under Section 6 in the Cass County Subdivision regulations as a vacation of plat. Mueller stated that he doesn't think it addresses that they would be splitting off a smaller than required 3-acre split. Felthousen stated that since it was originally 1.75 acres isn't it grandfathered in? Mueller & Tesar stated that it doesn't exist because they got rid of it. Althouse stated that if you have less than 3 acres – even if you are on rural water - don't you have to go through the EPA? Jensen stated that the DEQ no longer requires that but the fact that it's on rural water helps that out a lot being a smaller lot. Staben is concerned that whomever buys the 7-acre parcel – are they going to split that off and then have two houses there. Jensen stated that no – there would not be two houses allowed on that – just one – it would remain the parcel that it's made into by vacating this plat and only one house will be allowed on that – no splits. Mueller asked how far it is from a hard-surface road. Jensen stated that he estimates it's about 2 ½ miles. Jensen stated that today when someone comes to him if they are looking to combine two properties – he consults with them to find out why they wish to do so. If it's just to get one tax statement, he advises them to go talk to the Assessor's Office and they can combine them there. Widick asked what the County Attorney says about whether this causes problems with the other regulations we have. Jensen stated he attempted to contact the County Attorney, Colin Palm about this but was unable to talk to him with regard to creating basically what would be an illegal lot with the 1.75 acres. He stated there is some conflict there as they have it in the regulations that they are allowed to do a vacation of a plat, but the creating of a lot smaller than the 3 acres in the process isn't addressed. Jensen stated that he discussed with the property owner whether he would consider making the 1.75 acres a 3 acre lot instead. He told Jensen he would consider it but would not give a firm answer. Widick thought it was a reasonable request. Mueller asked if they would put a deed restriction on the remaining parcel. Widick asked if that required. Jensen stated that it was not required – they can still build on it as it would be a legal lot. With it being 5.5 acres, there is plenty of room for a well and septic. With no more questions or comments, Felthousen made a motion to not approve the 1.75 acres and if the property owner is willing to go to 3 acres, to approve that. Mueller clarified the motion stating "you are making a motion to not vacate the prior plat and recommend that the owner make it a 3-acre parcel and bring it back to Planning & Zoning". Felthousen agreed. Seconded by Widick. A roll call vote followed: Sullivan – aye; Widick – aye; Althouse – aye; Dennis – aye; Oehlerking – aye; Mueller – aye; Felthousen – aye; Staben – aye; Tesar – aye. 8 to 0 vote.

Jensen stated that the last thing on the agenda is the October 10, 2022 meeting. This falls on a County holiday, so he recommends moving it to the next day - Tuesday, October 11, 2022. Tesar made a motion that we move the Monday, October 10, 2022 meeting to Tuesday, October 11, 2022 at the Fairgrounds at 7 pm. Seconded by Felthousen. A voice vote followed with all voting in favor. Motion carried.

Since there was no further business on the agenda, Mueller made a motion to adjourn. Seconded by Tesar. A voice vote followed with all voting in favor. Meeting closed at 8:55 pm.

Linda Brouhard
Recording Secretary

*These minutes will not be approved until the next Planning Commission Meeting and are subject to change.